

UOLP-50102
SCOTT

May 27, 1987

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04/03/87

United States Environmental
Protection Agency
401 M Street, S.W.
Washington, D. C. 20460

Re: Petition by Scott Paper Company
Under 40 C.F.R. §260.20

Enclosed is a Petition from Scott Paper Company to exclude from hazardous waste regulations disposable wipers such as paper towels that may have come into contact with small quantities of hazardous waste incidental to their normal use in commercial and industrial establishments.

Scott Paper Company is a major manufacturer of disposal wipers, the vast majority of which do not come into contact with hazardous waste. However, for those wipers that do become contaminated, a substantial regulatory burden exists without any commensurate environmental benefit.

After the Petition has been reviewed by EPA, Scott Paper Company would appreciate a meeting with appropriate staff members to discuss the Petition, additional information that may be desired by EPA or appropriate modifications to the Petition that might achieve both Scott's objectives and EPA's legislative mandates for solid and hazardous wastes.

Very truly yours,

Nicholas J. DeBenedictis
Nicholas J. DeBenedictis
Senior Counsel
(215) 522-5617

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Enclosure

BEFORE THE ADMINISTRATOR
OF THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

PETITION FOR EXCLUSION OF)
USED, DISPOSABLE WIPERS FROM) Docket No.
REGULATION AS HAZARDOUS WASTE)

INTRODUCTION

Pursuant to 40 C.F.R. §260.20, Scott Paper Company ("Scott") hereby petitions the Administrator of the Environmental Protection Agency ("EPA") to modify EPA's hazardous waste regulations under Subtitle C of the Resource Conservation and Recovery Act ("RCRA"). The requested modification would exclude from regulation used, disposable wipers soiled with minor amounts of hazardous waste through normal use in industrial and commercial operations and which are to be subsequently disposed of as ordinary solid waste. This Petition does not cover wipers which had been used to clean up hazardous waste spills or to which hazardous wastes had been added in more than de minimis amounts as evidenced by the presence of free liquid wastes.

Used wipers, when contaminated with small amounts of certain types of hazardous materials, present no significant hazard to human health or the environment when disposed of in accordance with modern solid waste disposal procedures. Regulation of such items as hazardous waste subjects large numbers of otherwise unregulated persons -- including many small businesses -- to regulation under RCRA without any significant environmental benefit. Furthermore, current regulations unnecessarily complicate enforcement as discussed below which will be corrected by the granting of this Petition.

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The granting of this Petition will facilitate the use of disposable wipers while ensuring their appropriate disposal as solid waste. This will conserve extremely limited space in hazardous waste landfills while also reducing the current practice of washing hazardous contaminants from textile wipers by launderers. Such industrial laundries often discharge their wastewater into a municipal treatment works with the untreated hazardous materials passing directly through or contaminating the sludge.

I. Petitioner's Name and Address

Petitioner's name and address is as follows:

Scott Paper Company
Scott Plaza
Philadelphia, Pennsylvania 19113

Communications regarding this petition should be directed to:

Nicholas J. DeBenedictis
Senior Counsel
Scott Paper Company
Scott Plaza Two
Philadelphia, Pennsylvania 19113

II. Statement of Petitioner's Interest

Scott is a manufacturer and nationwide distributor of disposable paper towels and heavy duty wipers used in household, commercial and industrial applications. Most of such products, after being used, are not contaminated with listed hazardous wastes or materials exhibiting hazardous characteristics. Usually, the used wipers are discarded along with other trash (non-hazardous waste). In accordance with present day modern solid waste disposal practice,

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such trash is either burned in a licensed incinerator or disposed of in a licensed landfill. The high fuel value of the wiper and material contaminating the wiper, usually a solvent, is very beneficial to efficient incinerator operations. Also, when incinerated, most hazardous materials are either destroyed in the incineration process or sufficiently removed from the flue gas. When landfilled, the contaminants are strongly bound to the wiper and not readily released into leachate but if released, the leachate at landfills is collected and appropriately treated.

Presently, a disposable wiper contaminated with a listed hazardous waste (or contaminated with the material exhibiting a hazardous characteristic if the resulting wiper exhibits such characteristic) is regulated as a hazardous waste. However, such soiled wipers are discarded with other trash by generators of less than 100 kg/month (220 lbs/month) because current regulation allows such small generators to discard such wipers with their trash. For others, RCRA regulations of such used wipers contaminated with hazardous wastes require that they be shipped under a manifest and be transported in accordance with Part 263 to a TSD facility regulated under Parts 264 and 265.

In contrast, when textiles are contaminated with such hazardous materials, the current practice by many laundries is to wash the hazardous materials from the wipers, discard the hazardous materials with the wastewater and reuse only the wipers. The hazardous wastes are not being recycled by such laundries but are being removed from the textile wiper by washing and being released into the environment. Attached as Exhibit 1 is an excerpt from a report by Malcolm Pirnie discussing current industrial laundry practices. Such practices disperse hazardous materials in the environment, usually in water. Currently, disposable

wipers, when contaminated with hazardous materials, comply with the burdensome regulations despite the fact that disposing of such contaminated wipers as part of the solid waste stream into regulated landfills or licensed incinerators poses no significant or potential environmental or health risk.

III. Description of Proposed Amendment

Scott requests that Part 261 be amended as follows:

A new subparagraph 10 should be added to Section 261.4(b), such that that paragraph would read in pertinent part as follows:

(b) The following solid wastes are not hazardous wastes:

(10) Wipers used in normal industrial or commercial operations as an incidental part of such operations and through such use become soiled with wastes identified in Subpart C or listed in Subpart D and after use are to be disposed of as a solid waste. For purposes of this paragraph, used wipers from which free liquid is released during transportation or storage shall not be considered to have been used as an incidental part of normal industrial or commercial operations.

IV. Need and Justification for Proposed Exemption

A. Factual Background

Typical disposable wipers are used for cleaning parts and equipment, or for wiping workers hands and faces. Disposable wipers are distributed by paper distributors who also sell other commercial grade paper products for use in wash-rooms and company cafeterias. The commercial disposable wiper market consists of about ten million cases per year.

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In use, workplace wipers are exposed to a wide variety of chemical formulations, oil, grease and cleaning agents but seldom come into contact with hazardous wastes. Of the small percentage that come into contact with hazardous materials, the most usual materials are solvents, particularly flammable solvents designated D001 under RCRA although sometimes halogenated solvents are used. When used with a solvent, typically a small amount of clean solvent is applied to the wiper and the solvent treated wiper is used for wiping and cleaning. This results in a soiled wiper with some residual solvent and small amounts of other materials.

In a commercial establishment the solid waste stream is primarily trash with soiled wipers comprising only a small percentage (e.g., less than 1%) of the total solid wastes. Moreover, of the soiled wipers, only a small percentage are contaminated with a listed hazardous waste or a waste designated hazardous due to a characteristic, usually ignitability.

B. Absence of Risk from Soiled Disposable Wipers

Disposable wipers soiled through normal use present no significant risk to human health or to the environment. In normal use, commercial wipers pick up only minimal amounts of contaminants incidental to normal commercial or industrial operations because wipers are used to wipe residual amounts of materials from equipment or products or from workers hands and faces. The hallmark of these normal uses of disposable wipers is that the wipers absorb and retain the materials to which they are exposed in part due to the ability of cellulosic (wood) fibers to absorb materials within their structure. Disposable wipers soiled through normal use do not easily release free-flowing wastes and wipers

that do release free-flowing liquids are specifically excluded from the Petition. Furthermore, of all the used wipers only a small percentage is contaminated with hazardous materials.

In addition, soiled disposable wipers are routinely handled in a manner which prevents any risk of release during accumulation and transportation. Most commercial and industrial users place their soiled disposable wipers (non-hazardous) with normal trash similar to household trash. This trash is routinely picked up by solid waste haulers in covered vehicles and transported to final disposal sites, e.g., a landfill or incinerator. Solid waste haulers operate on regular routes within a geographic area and seldom transport solid waste more than 50 miles. As a result, the transportation of soiled disposable wipers presents no significant risk, due to short haul distances and the small amount of soiled disposable wipers within each load.

Solid waste transporters do not store their loads for extended periods of time. The loads are picked up, transported to the disposal site, and unloaded for final disposal. Failure to follow this procedure would mean that additional trucks would need to be purchased to handle the volume of solid wastes generated within an area. Thus, solid waste transporters have a strong incentive to deliver solid waste as soon as possible to the appropriate disposal site.

Sufficient regulations and compliance oversight are in place to ensure that solid waste is disposed of at licensed facilities and solid waste haulers are aware of the liabilities on transporters which could result in fines, imprisonment and loss of business due to unlawful disposal.

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Compliance with solid waste disposal regulations is very good and such waste ends up at an incinerator or a landfill which has the following effect.

(1) Incineration

Disposable wipers are primarily manufactured from cellulosic (wood) fibers which contribute a significant fuel value when incinerated. In addition, a modern incinerator tends to destroy the material held by the disposable wiper. Incineration is an excellent treatment for destroying cellulosic towels and solvents and such wastes are beneficial to the efficient operation of incinerators. Current technology for handling solid waste is being directed toward minimizing the use of landfills by removing from the solid waste stream recyclable materials such as glass and metal, thereby leaving a waste residue that is better suited for trash-to-energy conversion or incineration. Soiled wipers are compatible with such technology because of their high fuel value.

(2) Landfilling

When soiled disposable wipers are landfilled, the materials soiling these wipers are kept from adversely affecting the environment by being held within the wipers or, if released from the wipers, by being collected in the landfill leachate and appropriately treated.

C. Regulatory Burdens

The hazards associated with disposing of soiled disposable wipers are negligible. By contrast, the burdens associated with regulating these items as hazardous wastes are considerable. An estimated one million businesses currently use disposable wipers. A substantial proportion of this number generate disposable wipers soiled with minor amounts of solvents as a component of their solid

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waste although only a minor percentage would be classified as hazardous waste. Currently, such generators are faced with the difficult task of distinguishing among used wipers to determine which, if any, are hazardous waste and which are merely solid waste. Often such a difficult technical and quasi-legal determination must be made by workers who use wipers throughout the workplace thereby significantly complicating the employer's training burden. Only generators of less than 100 kg/month (220 lbs/month) of hazardous waste are currently excluded and accordingly, much of their used wipers are currently disposed of along with ordinary trash. The regulatory burden currently falls on the large generators and on those regulators attempting to enforce current regulations. The burdens are considerable and without commensurate environmental benefit.

Used wipers pose difficult compliance issues. When one glances at the mixture rule for hazardous waste, it would seem that a wiper contaminated with a listed chemical would always be classified as a hazardous waste. This, however, is not the case. Two identical wipers, each soiled with the same listed chemical, can be treated differently under current regulations, one as hazardous waste and the other as non-hazardous solid waste. For example, if a RCRA listed solvent is used with a wiper, two different regulatory results can occur depending on how the solvent and wiper are used. If clean solvent is applied to a wiper, the solvent treated wiper is not a hazardous waste even if the solvent is a RCRA listed material because the clean solvent is not a waste at the time the wiper and solvent are mixed. Therefore the mixture of the clean solvent and wiper does not fall under the RCRA mixture rule. The solvent treated wiper is then used and thereby becomes solid waste but not hazardous waste because used solvent treated towels are not listed RCRA wastes (assuming the used wiper

does not exhibit a hazardous waste characteristic). However, if the clean solvent is first applied directly to the equipment, becomes spent and is then wiped off with a clean wiper, the spent solvent is a RCRA waste and the wiper soiled with the spent solvent becomes a hazardous waste under the mixture rule. However, the two used wipers are physically identical. Therefore, with a solvent that is listed under RCRA, e.g., acetone (U002), the soiled wiper may or may not be a hazardous waste based upon how it was used. This poses a difficult problem for the regulator to determine whether a load of solid waste containing such a used wiper contains hazardous waste since inspection and analysis of the used wiper will not detect its manner of use. Granting of this petition will eliminate such a dichotomy.

When used with a D001 solvent (ignitability), the used wiper may or may not be a hazardous waste depending upon whether the mixture (used wiper) has retained the hazardous characteristic. This places a burden upon the regulated community to test such types of used wipers as a solid for ignitability under 40 CFR 261.21(a)(2) which is a very vague regulation. EPA has provided little guidance on how to test solids for the characteristic of ignitability.

Those soiled disposable wipers that are regulated as a hazardous waste currently have to be separated, accumulated, packaged, and manifested. The shipments must then be transported in accordance with 40 CFR Part 263 and disposed in hazardous waste disposal facilities often located many miles from the generator. Hazardous waste disposal facilities are in critically short supply while modern solid waste disposal facilities, although not plentiful, are more readily available. It is imperative that existing hazardous waste disposal facilities be only used for truly hazardous waste which present a significant

risk to human health and the environment. Soiled disposable wipers are currently either landfilled or incinerated. Modern landfills prevent the discharge of hazardous constituents by requiring collection and treatment of leachate. Modern incinerators transform organic matter into carbon dioxide and water and meet stringent flue gas limitations as to other constituents. Furthermore, the fuel value of cellulosic wipers and solvents contribute to the efficient operations of incinerators. The net result is that modern solid waste disposal facilities prevent potentially hazardous substances from ever reaching the environment.

D. Other Wiper Technology

Reusable shop towels are laundered and the towels are reused. When laundered, the materials contained in the towels are washed from the towels and discharged with the effluent. The effluent normally is sent to a municipal treatment plant (POTW) without pretreatment. POTWs are usually designed to remove suspended materials and treat biodegradable dissolved materials. Often, the processes employed in municipal treatment plants do not readily remove or treat the materials which soil the towels. Therefore, hazardous materials pass through the treatment plant untreated and are discharged to the receiving waters where they can have an effect on the environment and on aquatic life. To the extent hazardous materials are removed from wastewater by a POTW, they often end up as contaminants in the sludge which interfere with beneficial uses of the sludge.

E. Consistency with Exclusions of Other Solid Waste

The requested exclusion would be entirely consistent with EPA's recognition that certain solid waste streams do not need to be controlled under the general requirements for generators, transporters, treaters and storage facilities for hazardous waste because they are adequately handled as ordinary solid

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waste or because regulating them as hazardous waste would be excessively burdensome in relation to the benefit to be achieved. Since the inception of the RCRA program, EPA has recognized that it is preferable to handle some waste streams as non-hazardous solid wastes, so long as the accumulation, transportation, handling and disposal of the waste does not present a significant hazard. For this reason, both in the original 1980 RCRA Regulations and in the 1985 Regulations redefining "solid waste", EPA excluded a number of materials from regulation.

The basic reasoning behind the decision not to regulate certain waste materials as hazardous wastes is EPA's perception that there are no significant environmental and health risks associated with handling such materials as non-hazardous solid wastes. Examples of such excluded wastes are household wastes (including multiple dwellings, hotels and motels) and arsenical treated wood wastes generated by end-users of such products. The common element underlying each of these exclusions is the absence of any known risk related to the normal handling, storage and disposal of these materials as non-hazardous solid waste. Like these wastes, soiled disposable wipers presents no significant risks to human health or the environment when handled or held prior to disposal and should also be excluded.

(1) Household Waste

EPA has recognized that the regulation of small quantities of household hazardous waste under Subtitle C of RCRA was impractical and unjustified. Although small quantities of hazardous wastes are present in household waste, their de minimis quantities along with the controls established at solid waste disposal facilities is more than adequate to protect human

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health and the environment. Likewise, soiled disposable wipers mixed with commercial and industrial solid waste are analogous to household waste and should similarly be exempt from regulation.

(2) Treated Wood Waste

For arsenical treated wood waste generated by end-users (40 CFR 261.4(b)(9)), a very good analogy exists between this exemption and the exemption that is subject of the present petition. Both represent a very small percentage of the solid waste stream of the generators of such waste and both end up in a landfill or are incinerator which adequately treats such wastes.

Conclusion

For the foregoing reasons, EPA should adopt the requested exclusions for disposable wipers soiled in normal industrial and/or commercial operations. The exclusion would provide relief from totally unnecessary regulation for hundreds of thousands of disposable wiper users. Absent this relief, an unnecessary and complex aspect of an otherwise highly efficient and established system of solid waste management will be perpetuated without any measurable benefit to human health or the environment. Given EPA's statutory mandate to minimize the generation of hazardous waste, exclusion of soiled disposable wipers from hazardous waste is strongly encouraged. The requested exclusions would be an important step in insuring that hazardous waste disposal capacity is preserved for the disposal of truly hazardous wastes which present a potential threat to human health and the environment.

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